

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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FARAH JEAN FRANCOIS,

Case No.: 1:22-cv-4447-JSR

Plaintiff,

-against-

**SPARTAN AUTO GROUP LLC d/b/a
VICTORY MITSUBISHI,
STAVROS ORSARIS,
YESSICA VALLEJO, and
DAVID PEREZ,**

Defendants.

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**DECLARATION OF SETH R. LESSER IN SUPPORT OF PLAINTIFFS' MOTION
FOR AN AWARD OF ATTORNEYS' FEES AND COSTS**

I, SETH R. LESSER, hereby declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that the following is true and correct:

1. I was admitted to the Bar of this Court on September 9, 1989, and am a partner in Klafter Lesser LLP, a firm which has its principal office in this District. I have practiced in this Court since my admission and I particularly practice in complex civil litigation, particularly plaintiffs-side contingent litigation, including consumer litigation, in this Court as well as other state and federal courts across the country. This has included, as relevant here, Fair Credit Reporting Act cases. In addition to being admitted to this Court, I am also admitted to the bar of the State of New York, as well as other states and numerous federal district, courts of appeal, and the United States Supreme Court as set forth on my attached CV which sets forth the scope of my practice in greater detail.

2. I am familiar with the facts and circumstances set forth herein and make

this declaration in support of the attorney fee applications of Plaintiff's counsel Andrew M. Milz and Jody Thomas López-Jacobs in the above-captioned litigation.

3. As stated above and in greater detail in my attached CV, I have practiced in this Court since 1989; for over twenty years, I have prosecuted contingent-fee litigation on behalf of consumers, employees, and others in this Court, as well as others across the country. In representing consumers, I have obtained individual, class and group relief that has totaled tens of millions of dollars. In addition, I have been the National Association of Consumer Advocates' Attorney of the Year in 2005 and was Co-Chair of the Board of Directors of that organization from 2008 through 2013; I am on the Board of Directors of Public Justice; I am on the Second Circuit Courts Committee of the Federal Bar Council, and as am a member of the American Law Institute and have been active in members consultative groups of the American Law Institute, among many other professional affiliations, as set forth in my CV. Over the past two decades, I have submitted many fee applications in cases in this Court and have never had a fee application or my hourly rates denied. At present, my hourly rate is \$1,125/hour.

4. My understanding is that Mr. Milz is requesting approval of an hourly rate of \$595 and Mr. López-Jacobs one of \$390. Mr. Milz was admitted as a lawyer in 2008 and I can state that he, and his firm, has a national reputation as an attorney for consumers. I have personally worked with Mr. Milz and co-counselled cases with him and can easily attest to his – and his firm's – prowess in representing consumer clients in contingent fee cases of all sorts. While I have not personally worked with Mr. López-Jacobs, given the quality of representation that the Flitter Milz, P.C. provides, I have no doubt that his representation skills are of the highest level.

5. The hourly rates being sought by Mr. Milz and Mr. López-Jacobs are most certainly in line with, if not most distinctly lower than, the market rates in this Court for legal services of

the quality of the Flitter Milz firm in representing consumers in a claim, as was present in this case, for a violation of the federal Fair Credit Reporting Act. Obtaining, as I understand they did, a consent judgment in favor of the Plaintiff here demonstrates that quality and, accordingly, the hourly rate being sought. The rates of Mr. Milz and Mr. Lopez-Jacobs should, I respectfully submit, be approved by the Court as consistent with the current market rates for attorneys of similar experience and skill who represent plaintiffs in such cases within this Court

I certify under penalty of perjury that the foregoing is true and correct.

Date: December 2, 2024

s/


Seth R. Lesser (SL-5560)

SETH R. LESSER, ESQ.
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Seth Lesser is a partner in Klafter Lesser LLP, and is admitted in New York, New Jersey and District of Columbia, where he practices in the areas of wage and hour litigation, consumer advocacy, mass torts, and corporate governance, primarily on behalf of injured individuals, defrauded consumers, employees and businesses. He is admitted to the bars of those three jurisdictions, as well as two dozen federal courts (*see* below).

Mr. Lesser is a graduate of Princeton University, A.B., *summa cum laude* (1983); Oxford University, D.Phil. in Modern History, recipient of a Marshall Scholarship (1985); and Harvard Law School, J.D., *magna cum laude* (1988), where he was an editor of the HARVARD JOURNAL OF INTERNATIONAL LAW and of the HARVARD ENVIRONMENTAL LAW REVIEW. In addition, he was the Princeton University Varsity Heavyweight coxswain in 1982 & 1983 and the coxswain of the victorious Oxford Blue Boat in the Oxford-Cambridge Boat Race in 1984 & 1985.

SUMMARY OF PROFESSIONAL ACTIVITIES

Since 1995, Mr. Lesser has primarily represented plaintiffs in individual, class, collective, and mass tort cases. He regularly speaks and writes on these topics, and is a co-author of a treatise on consumer class action law.

He has been the lead plaintiffs' counsel in dozens of successful individual, class, collective, and mass tort actions in the areas of consumer law, employment, privacy, securities, and mass tort litigation. The cases in which he has personally been a lead counsel have returned nearly a billion dollars to his clients and the cases in which he has been co-counsel several times that amount. In addition to many class actions where he was lead plaintiffs' counsel but which cases were not Federal Multidistrict Litigation proceedings, the MDLs where he was court-appointed lead counsel have including, among others, MDL-1346 (*In re Amazon-Alexa*); MDL-1352 (*In re Doubleclick*); MDL-1708 (*In re Guidant Implantable Heart Devices*); MDL-1739 (*In re Grand Theft Auto Video Game Consumer Litigation*); MDL-1903 (*In re Pepsico, Inc. Bottled Water Sales Practices*); and MDL-2025 (*In re Staples, Inc. Wage & Hour Employment Practices Litig.*). He has also served on numerous MDL Executive/Steering Committees, including the Executive Committee in MDL-1845 (ConAgra Peanut Butter Products Liability Litigation), and serving as Law & Briefing Co-Chair of the Government Actions Committee in MDL-1657 (Vioxx Products Liability Litigation). Among other things, he was the lead New York class counsel in the Fen/Phen diet drug litigation, in that case obtained the first certification under New York law for a medical monitoring class, and was the New York class counsel in the MDL settlement with American Home Products. In one case, a federal court judge, addressing Mr. Lesser in approving a settlement, stated, "the court already held that class counsel was adequate in the context of class certification. But more than just adequate, class counsel's performance in

this case has been exemplary.” *Wilson v. Gloucester County*, 06-cv-1368 (JEI/AMD) (D.N.J.) (final approval obtained March 18, 2010).

He has successfully taken cases to trial. In 2009, he won a verdict one of the first Fair Labor Standards misclassification collective cases taken to a jury, resulting in a judgment of \$5 million on behalf of 342 collective action plaintiffs, *Stillman v. Staples, Inc.*, No. 07-cv-849 (D.N.J.), a result which led to the \$42 million nationwide settlement of MDL-2025. In one groundbreaking case, he obtained 100% of consumers’ actual damages for a class of New Jersey consumers in a case that he successfully argued at the New Jersey Supreme Court, *Perez v. Rent-A-Center*, 186 N.J. 188 (2006).

Mr. Lesser was the National Association of Consumer Advocates’ Attorney of the Year in 2005 and was Co-Chair of the Board of Directors of that organization from 2008 through 2013. From 1998 through 2001, he served as the representative of the American Council on Consumer Interests to the United Nations. At present, he is on the Second Circuit Courts Committee of the Federal Bar Council, is active in the Members Consultative Groups of the American Law Institute’s Restatement of the Law Third, Restitution and Unjust Enrichment project. In 2017, he joined the Board of Public Justice and has served on its Executive Committee. He also been on the *Amicus* Committee of the American Association for Justice and was the Co-Chair of the Food-Borne Illness Litigation Group of the American Association for Justice. He is a member of, *inter alia*, the American Law Institute; the American Bar Association; the Second Circuit Federal Bar Council; the Bar Association of the City of New York; the National Association of Consumer Advocates; the American Association for Justice; and the National Employment Lawyers Association.

Other professional organizational appointments have included being the Chair of American Bar Association’s Business Law Section’s Environmental Litigation Subcommittee (1995-2002); the Co-Chair of the ABA’s Business Law Section’s Annual Review of Litigation (1995-1998); a member of the New York City Bar Association’s Committees on Consumer Affairs (1995-1998) and Federal Courts (1998-2001); a member of the Federal Bar Council’s Second Circuit Courts Committee (2006 to date); and Co-Chair of the American Association for Justice’s Food-borne Illness Litigation Group (2007-2010). He also was the Chair of the National Association of Securities and Consumer Attorneys’ Consumer Committee from 2003 to 2005. He was asked to draft revisions to New York State’s class action law (2002-2003; Report, 2003), as well as having been involved in the drafting of numerous recommendations, testimony, reports, and other materials for various professional organizations. His election to the American Law Institute was in 2008 and he actively participated in the Members Consultative Group to the ALI’s 2009 adoption of the Principles of the Law of Aggregate Litigation. In addition, Mr. Lesser has served on the Editorial Advisory Board of the *Class Action Law Monitor*.

Mr. Lesser has been repeatedly chosen as a Superlawyer®, both as a Superlawyer® in the New York Metropolitan Area in the area of class actions and also as one of the 25 best lawyers in Westchester County, N.Y.

PUBLICATIONS (sample). Among others, Mr. Lesser's publications include:

The Second Circuit Federal Bar Council, *Courthouses of the Second Circuit* (2015) (Contributor)

“An Attorney’s Reaction to Professor Kolodinsky’s Observations,” 44(3) The Journal of Consumer Affairs (Fall 2010)

Consumer Class Actions, Fifth through Seventh Editions (2002-to date) (Contributor & Ed.), published by the National Consumer Law Center

“Time price differentials in the rent-to-own industry: implications with empowering vulnerable consumers,” 29(2) International Journal of Consumer Studies, 119-24 (March 2005) (co-author)

Annual Review of New York’s Consumer Protection Statute, New York Law Journal (annual review articles, 1997-2005)

New Jersey’s Consumer Fraud Law, New Jersey Law Journal (review article, 2003)

“Internet Privacy Litigation and the Current Normative Rules of Internet Privacy Protection,” *Considering Consumer Privacy*, Center for Democracy & Technology (March 2003; P. Bruening, ed.)

“Privacy Law in the Internet Era,” Internet Law & Business, September 2002

“The Second Circuit Cuts Back on Diversity Jurisdiction,” New York Law Journal (April 16, 1997)

“New Pleading Requirements for Consumer Fraud Suits,” New York Law Journal (October 25, 1996)

SPEAKING ENGAGEMENTS (sample). Among a number of others, Mr. Lesser’s engagements as a featured speaker have included:

Strafford, Class Certification: Plaintiff and Defense Perspectives on Key Issues, Current Circuit Splits and Unwritten Mandates (Webinar, May 30, 2024)

National Association of Consumer Advocates, Web-course on Settlement (March 2024)

Steering Committee and Speaker, Co-Cambridge Forum on Plaintiffs’ Class Actions (2019-2023)

National Consumer Law Center: Speaker at Annual Symposium on Class Actions (Various locations, 2000-2023) and on other topics relating to consumer law

Strafford, Employment Contracts After Epic SCOTUS Decision (Webinar, August 7, 2019)

National Employment Lawyers' Association, Annual Convention (July 2018)

Lawline, Introduction to the Fair Labor Standards Act (Webinar, September 18, 2017)

Lawline, SCOTUS Review: Tyson v. Bouaphakeo (Webinar, September 19, 2016)

National Employment Lawyers' Association, Wage & Hour Conference (Washington, D.C. May 2015)

National Association of Consumer Advocates: Speaker at various conferences on topics relating to consumer finances, class actions and complex litigation (Various locations, 1999-2015, 2022)

National Employment Lawyers' Association, Fall Conference (Washington, D.C. Oct. 2011)

Rand Institute for Public Justice: Conference on Alternative Litigation Finance (Alexandria, Virginia 2010)

New Jersey Association for Justice: Meadowlands Seminar – The New Jersey Consumer Fraud Act (Secaucus, New Jersey, 2009)

Practicing Law Institute: Speaker at multiple conferences, including Consumer Financial Services Litigation (New York, 2000-2003, 2009) and the First through Fourth Institutes on Privacy Law (New York & San Francisco, 2000-2004)

American Council on Consumer Interests: Rent-A-Own – Consumer Issues (Orlando, Florida, August 2008)

American Association for Justice: The Status of Daubert Today (Philadelphia, July 2008)

Federal Bar Council Fall Retreat: Rule 23 in The Second Circuit (Lenox, Massachusetts, October 2007)

American Bar Association: Speaker at numerous conferences and teleconferences, including "Class Actions and Consumers," (ABA Connection Teleconference, June 20, 2007); Fourth National Institutes on Class Actions (October 2005); "Class Action Practice After The Fairness Act of 2005" (Teleconference, March 17, 2005); Internet Privacy Issues (Teleconference Seminar, Sept. 19-20, 2001) (also featured in article on same topic in ABA Journal, September 2001); Business Law Section's Annual Review of Litigation (Various locations, 1995-1998) (co-chair)

Mealy's Publications, Mealey's Drug & Medical Device Litigation Conference (San Diego, May 2007)

Mealy's Publications, Representing Toxic Tort Victims (Philadelphia, Pennsylvania, 2003)

Computers, Freedom & Privacy (“CFP”) Conference, Speaker at 12th Annual Conference (San Francisco 2002)

Mealy’s Publications, Rezulin Conference, Speaker (Alexandria Virginia, 2000)

Reinsurance Association of America, Speaker on Year 2000 litigation issues (New York, 1999)

BAR ADMISSIONS

Mr. Lesser is admitted to the following Bars: State of New Jersey (1988); U.S. District Court, District of New Jersey (1988); State of New York (1989); U.S. District Court, Eastern District of New York (1989); U.S. District Court, Southern District of New York (1989); District of Columbia (1990); U.S. Court of Appeals, District of Columbia Circuit (1994); U.S. Court of Appeals, Ninth Circuit (1997); U.S. Court of Appeals, Tenth Circuit (1997); U.S. Supreme Court (1998); U.S. Court of Appeals, Second Circuit (1998); U.S. District Court, District of Colorado (2000); U.S. Court of Appeals, Sixth Circuit (2001); U.S. Court of Appeals, First Circuit (2002); U.S. Court of Appeals, Third Circuit (2003); U.S. District Court, Central District of Illinois (2004); U.S. Court of Appeals, Seventh Circuit (2004); U.S. Court of Appeals, Eleventh Circuit (2005); U.S. District Court, Northern District of New York (2006); U.S. District Court, District of Connecticut (2006); U.S. District Court, Western District of New York (2010); U.S. District Court, Western District of Michigan (2010); U.S. District Court, Western District of Tennessee (2015); U.S. District Court, Eastern District of Michigan (2017); U.S. Court of Appeals, Eighth Circuit (2019).

PERSONAL INFORMATION

Seth Lesser is married and has four daughters. He is a Past President of the Hillholme Association in Chappaqua, New York and is a member of the Zoning Board of Appeals for the Village of Saltaire, New York. He is a member of the Committee for the Oxford-Cambridge Boat Race Dinner in New York City, and he actively continues to be a coxswain, coxing for, among others, the Lake Union Crew, the Greenwich Crew, and the Thames Rowing Club (London) at such races as the Head of the Charles.

December 2, 2024

